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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,993	12/04/2000	Christopher P. Guzowski	67218	6874

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EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/729,993

Applicant(s)

GUZOWSKI ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5 and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 5 and 14 recite "the baking shield is stored at the bottom pf the receptacle in a position inverted from the storage position". It is not clear what orientation the shield is in since this phrase appears to contradict itself.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirkpatrick [Pat. No. 3,951,053].

Kirkpatrick teaches a baking shield comprising an upstanding sidewall (Figure 4, #10), an upper wall with a central opening (Figure 4, inner extension of #15), and an annular trough with a frustoconical portion between two annular portions (Figure 4, #10).

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Phrases such as "for protecting..." are merely preferred methods of using the claimed apparatus and as such are not shown patentable weight.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkpatrick as applied above, in view of Ragland [Pat. No. 5,845,805].

Kirkpatrick teaches the above mentioned components. Kirkpatrick also teaches a frustoconical receptacle with a bottom, open top, and outer rim (Figure 4, #13 & 16) and a pie (Figure 4, #11-12). Kirkpatrick does not teach a pizza pie. Ragland teaches a baking shield for baking a pizza pie (column 1, line 5). It would have been obvious to one of ordinary skill in the art to use the pizza pie of Ragland in the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick already used pies (Figure 4, #11-12), since pizza pies, such as pan pizza and deep dish pizza, were commonly made in pans, and since baking shields were commonly used for making pizza pies as shown by Ragland (column 1, line 5).

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkpatrick as applied above, in view of Sabin [Pat. No. 1,097,367].

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Kirkpatrick teaches the above mentioned components. Kirkpatrick does not teach the second end of the annular trough being below the outer rim of the receptacle. Sabin teaches a baking shield which extends below the outer rim (Figure 2, #11 & 7). It would have been obvious to one of ordinary skill in the art to incorporate the downward extension of Sabin into the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick already included an annular trough (Figure 4, #10), and since the downward extension of Sabin helped to press the crusts together (Figure 2), and thus prevent seepage of food and liquids from the pie.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkpatrick in view of Ragland as applied above, and further in view of Sabin.

Kirkpatrick and Ragland teach the above mentioned components. Kirkpatrick and Ragland do not teach the second end of the annular trough being below the outer rim of the receptacle. Sabin teaches a baking shield which extends below the outer rim (Figure 2, #11 & 7). It would have been obvious to one of ordinary skill in the art to incorporate the downward extension of Sabin into the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick already included an annular trough (Figure 4, #10), and since the downward extension of Sabin helped to press the crusts together (Figure 2), and thus prevent seepage of food and liquids from the pie.

10. Claims 1-7, 9-17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkpatrick and Ragland as applied above, and further in view of Peleg [Pat. No. 5,247,149].

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Kirkpatrick and Ragland teach the above mentioned components. Kirkpatrick also teaches forming the baking shield of a disposable material (column 2, line 9). Kirkpatrick does not teach a shipping carton with a bottom wall, the use of metal foil, and storing the baking shield inverted at the bottom of the receptacle. Ragland also teaches storing the baking shield inverted at the bottom of the receptacle (Figure 1, #1-2) and the use of metal foil (column 5, lines 16-40). Peleg teaches a package comprising a baking shield and pizza within a shipping carton (Figure 2, #44; column 11, lines 3-9; Figure 4, #12 & 48). It would have been obvious to one of ordinary skill in the art to incorporate the shipping carton of Peleg into the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick would have required some means to transport the receptacle and baking shield, and since baking shields and pies were commonly shipped in cartons as shown by Peleg (Figure 2). It would have been obvious to one of ordinary skill in the art to incorporate the metal foil of Ragland into the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick teaches the use of disposable materials (column 2, line 9), and since baking pans and utensils were commonly made from disposable materials such as metal foil, as shown by Ragland (column 5, lines 16-40). It would have been obvious to one of ordinary skill in the art to incorporate the bottom position of Ragland into the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick already included a baking shield capable of being placed at the bottom of the receptacle (Figure 4, #10 & 13), since baking shields were commonly placed at the bottom of receptacles as shown by

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Ragland (Figure 1), and since this would have prevented the baking shield from contacting the food item, an possibly damaging it, during transport.

11. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkpatrick, in view of Ragland, and Peleg as applied above, and further in view of Sabin.

Kirkpatrick, Ragland, and Peleg teach the above mentioned components. Kirkpatrick, Ragland, and Peleg do not teach the second end of the annular trough being below the outer rim of the receptacle. Sabin teaches a baking shield which extends below the outer rim (Figure 2, #11 & 7). It would have been obvious to one of ordinary skill in the art to incorporate the downward extension of Sabin into the invention of Kirkpatrick since both are directed to baking shields, since Kirkpatrick already included an annular trough (Figure 4, #10), and since the downward extension of Sabin helped to press the crusts together (Figure 2), and thus prevent seepage of food and liquids from the pie.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keener [Pat. No. 4,911,634] and Woodward et al [Pat. No. 6,054,697] teach baking shields and shapers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker
Examiner
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March 20, 2003